

REMARKS/ARGUMENT

Entry of the instant Amendment is requested on the grounds that it raises no new issue, requires no further search, does not constitute new matter, further narrows the claims and, in the event the final rejection is maintained, presents the claims in better form for consideration on appeal.

As a preliminary matter, it is pointed out that the Amendment dated November 3, 2008 (received in the office November 10, 2008) did not amend the claims in any respect. Yet the Examiner cited and applied two new references (Miyajima EP 0 344 603 and Kigoshi EP 0 8 784 974) in the final rejection of those non-amended claims. The Examiner's attention is directed to MPEP §609.04 (b) III.2, where it is clearly stated that it is inappropriate to make the rejection final under such circumstances. Accordingly, withdrawal of the finality of the Office Action of February 6, 2009 is respectfully requested.

Turning to the merits, claims 1, 4, 15, 17, 22, 49 and 53-55 stand finally rejected under §102(b) as being anticipated by both Miyajima '603 and Kigoshi '974. In response, applicants point out that neither reference discloses or suggests any process for making a solid amorphous dispersion of a low-solubility drug and HPMCAS using no components other than drug, HPMCAS and solvent, as called for in the claims as amended.

As to the §103 rejection of claims 1, 4, 15, 17, 22-33, 36-37, 49-51 and 53-56, applicants direct the Examiner's attention to the reason such a rejection is not well-founded as set forth in the Response dated November 3, 2008 and further point out that the claims as now amended are not open to the inclusion of a viscogenic coating as in the Akiyama matrix.

Appl. No. 09/770,562
AMENDMENT UNDER 37 CFR 1.116 -- EXPEDITED dated February 23, 2009

Early and favorable reconsideration is respectfully requested.

Respectfully submitted,

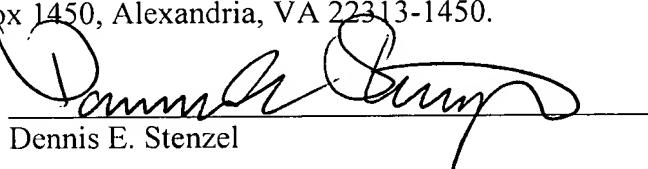


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

2/23/09
Date


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